

BUSINESS MEETING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Business Meeting)
)
_____)

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, DECEMBER 5, 2001
10:08 A.M.

Reported by:
Valorie Phillips
Contract No. 150-01-006

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSIONERS PRESENT

William J. Keese, Chairman

Michal Moore

Robert A. Laurie

Robert Pernell

Arthur Rosenfeld

STAFF PRESENT

Steve Larson

Bill Chamberlain

Valerie Hall

Nancy Tronaas

Matt Trask

Sandra Fromm

Mike Trujillo

Virginia Lew

Suzanne Korosec

Bob Therkelsen

PUBLIC ADVISER

Roberta Mendonca

ALSO PRESENT

Anne Simon
Communities for a Better Environment

Scott Galati, Attorney
Sunrise Power Project

ALSO PRESENT

Jeffery Harris, Attorney
Mike Argentine
Calpine Corporation

Sandra Spelliscy, Attorney
Planning and Conservation League

Fern Feto
Greenpeace

Tom Addison
Bay Area Air Quality Management District
California Air Pollution Control Officers
Association

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

I N D E X

	Page
Proceedings	1
Items	
1 Consent Calendar	5
2 Sunrise Power Project	5
3 Avenal Energy Project (moved to 12/19)	9
4 Avenal Energy Project (moved to 12/19)	9
5 Tesla Power Project - (moved to 12/19)	9
6 Tesla Power Project - (moved to 12/19)	9
7 Central Valley Energy Center Project	9
8 Central Valley Energy Center Project	13
9 Department of General Services (moved to 12/19)	13
10 California Air Resources Board	13
11 Manzanita Elementary School District	16
12 Title 20 Data Collection Regulations (moved to 12/19)	18
13 Energy Conservation Assistance Act Account	18
14 Energy Conservation Assistance Act Account	18
15 Energy Conservation Assistance Act Account (moved sine die)	22
16 Renewable Resource Trust Fund	22
17 Construction and Use of Emergency Generators Report - (moved to 12/19)	24
18 Commission Reconsideration Resolution No. 01-1017-02	24

I N D E X

	Page
Items	
19 Minutes, 9/05; 9/19; 9/25; 10/03; 10/17; 10/31; 2001	75
20 Energy Commission Committee and Oversight	77
21 Chief Counsel's Report	87
22 Executive Director's Report	88
23 Public Adviser's Report	89
24 Public Comment	90
Adjournment	90
Certificate of Reporter	91

1 P R O C E E D I N G S

2 10:08 a.m.

3 CHAIRMAN KEESE: I call this meeting of
4 the Energy Commission to order. Commissioner
5 Moore, would you lead us in the Pledge, please.

6 (Whereupon, the Pledge was recited in
7 unison.)

8 CHAIRMAN KEESE: Thank you and good
9 morning. Before we start our calendar today I'd
10 like to call on Commissioner Pernell for a little
11 award.

12 COMMISSIONER PERNELL: Thank you, Mr.
13 Chairman. I do have an award this morning going
14 to Valerie Hall. Valerie has been working for the
15 state for the last 25 years. She started in 1975.
16 Came to the Commission in 1978.

17 Among some of her activities have been
18 conducting cost effective analyses on the load
19 management standards. Was ahead of the curve in
20 developing conservation programs to alleviate a
21 forecasted electricity shortfall in the summer of
22 1980. And that sounds like deja vu here.

23 (Laughter.)

24 COMMISSIONER PERNELL: Managed the first
25 energy conservation manual to help builders comply

1 with the standards. In 1985 Valerie was the
2 project manager in the power plant siting
3 division. She worked on the Owendale waste to
4 energy project, among others. And that also
5 sounds like biomass, so Valerie has some history
6 in that area.

7 In 1986 she served a year as an advisor
8 to Commissioner Noteware. Finally, she returned
9 to the conservation division in 1987 where she
10 remains today. Valerie has been a major
11 contributor to the efforts in the division
12 focusing on the development and implementation of
13 the building and appliance standards.

14 Valerie has been an office manager for
15 almost ten years. She is currently manager of the
16 residential building and appliance office. And I
17 want to congratulate Valerie; and I have a couple
18 of items for her excellent service for the people
19 of State of California.

20 Valerie, would you please come forward.
21 Let's give her a hand.

22 (Applause.)

23 COMMISSIONER PERNELL: Okay, now that
24 I've read all that, I want to take a personal
25 note, which is always dangerous.

1 Valerie, I want to thank you from the
2 energy efficiency division on the work that we've
3 done over the year, and helping us expedite the
4 building standards and the appliance standards.

5 And we know from the Committee who does
6 all the work and the Committee members that are
7 assigned to the Committee. And first of all, what
8 I'd like to do is give you this -- I'm told, at
9 least by my wife, that women like jewelry, so --

10 (Laughter.)

11 COMMISSIONER PERNELL: This is something
12 that the state gives, and it has a state seal, is
13 that what that is?

14 (Laughter.)

15 COMMISSIONER PERNELL: Looks great, I
16 don't know if I'll ever get one of these, but --

17 (Laughter.)

18 COMMISSIONER PERNELL: -- to you on
19 behalf of the State of California.

20 (Applause.)

21 COMMISSIONER PERNELL: Also we have a
22 certificate presented to Valerie by Governor Gray
23 Davis and signed by the Secretary of State Bill
24 Jones. And it is a recognition of employment with
25 the State of California for a period of 25 years,

1 and it has a completion date. And I can't believe
2 you started that early, must have been 16 or
3 something.

4 (Laughter.)

5 COMMISSIONER PERNELL: Anyway, this is
6 also a certificate from the Governor of the State
7 of California.

8 (Applause.)

9 COMMISSIONER PERNELL: Thank you.

10 MS. HALL: If I can just take a moment.
11 It's really been, and continues to be, wonderful
12 to work here at the Commission on programs that
13 really, I think, make a difference.

14 And I think more importantly to work
15 with all of you people who really make this place
16 fun and much more interesting. And I think it's
17 nice to be working with a lot of dedicated people.

18 And as Mike pointed out to me, if I'd
19 just gotten the load management standards right
20 the first time we wouldn't be looking at it again.
21 If we had done a better job in the summer of 1980
22 maybe we wouldn't be in a crisis --

23 (Laughter.)

24 MS. HALL: -- the appliance standards
25 and the building standards. So, you know, I'm

1 here. I think it's, you know, the -- rather than
2 doing this right. But, --

3 (Laughter.)

4 (Applause.)

5 CHAIRMAN KEESE: Thank you for the
6 lobbying job, and it's a good thing you don't have
7 anything up today.

8 (Laughter.)

9 CHAIRMAN KEESE: If I had the agenda for
10 the 19th I'd check and see whether that was
11 advanced lobbying.

12 (Laughter.)

13 CHAIRMAN KEESE: All right, item number
14 1, consent calendar. Do I have a motion?

15 COMMISSIONER MOORE: So moved.

16 COMMISSIONER ROSENFELD: Second.

17 CHAIRMAN KEESE: Moved by Commissioner
18 Moore, seconded by Commissioner Rosenfeld.

19 All in favor?

20 (Ayes.)

21 CHAIRMAN KEESE: Opposed? Adopted five
22 to nothing.

23 Item 2, Sunrise Power project. Petition
24 to extend simple cycle operations to December 31,
25 2003.

1 MS. TRONAAS: Good morning, I'm Nancy
2 Tronaas; I'm the compliance project manager for
3 this project. This amendment is for an extension
4 of simple cycle operations for the Sunrise Power
5 project from its current expiration of December
6 31, 2002, to December 31, 2003.

7 This will also allow for an increase in
8 operating hours to permit baseload operations.
9 Sunrise's simple cycle operations will cease as
10 soon as the combined cycle power plant is
11 available for commercial operation, which is
12 currently scheduled for the summer of 2003.

13 Staff has determined that potential air
14 emission impacts from this extension of simple
15 cycle operations have been fully offset through
16 the use of banked emission credits and those
17 purchased from stationary combustion sources in
18 Kern County.

19 It is staff's opinion that the required
20 findings of section 1769 can be made, and we
21 recommend approval of this petition.

22 No public comments have been received on
23 this amendment, and the Commission Staff and
24 project representatives are here to answer any
25 questions.

1 COMMISSIONER LAURIE: Mr. Chairman, if I
2 may, the Siting Committee has reviewed this
3 matter; has determined a finding consistent with
4 the recommendation, that is no negative
5 environmental impacts. And added benefit to the
6 system. And therefore concurs with staff's
7 recommendation.

8 In that light I would move staff's
9 recommendation.

10 CHAIRMAN KEESE: Motion, Commissioner
11 Laurie.

12 COMMISSIONER PERNELL: Second.

13 CHAIRMAN KEESE: Second, Commissioner
14 Pernell. Any comments up here? Ms. Simon.

15 MS. SIMON: Thank you, Mr. Chairman.
16 I'm Anne Simon from Communities for a Better
17 Environment.

18 CBE does not actually object to this
19 proposal, but I am taking the opportunity to point
20 out to you that the extension of simple cycle
21 operations for this project, in response to
22 executive orders that are about to expire, is part
23 of the background to the position of CBE and other
24 organizations that the action we hope you will
25 take later in this agenda to rescind your prior

1 resolution in relation to the four-month process,
2 is important.

3 Things change. This application, which
4 was going to convert from simple cycle, is going
5 to be running on simple cycle for almost two more
6 years. I just wanted to point out to the members
7 of the Commission that it is this sort of thing
8 that concretely generates the interest that many
9 groups have shown in your approach to the four-
10 month process that we will be discussing later.
11 Thank you.

12 CHAIRMAN KEESE: Thank you. But you're
13 not objecting to this?

14 MS. SIMON: No, we are not objecting to
15 this.

16 CHAIRMAN KEESE: Thank you. Any other
17 comments from the public?

18 MR. GALATI: If I could just clarify one
19 thing. The project came online in 2001, will
20 continue to operate through 2003, it will still be
21 less than three years.

22 CHAIRMAN KEESE: Thank you. We have a
23 motion and a second.

24 All in favor?

25 (Ayes.)

1 CHAIRMAN KEESE: Opposed? Adopted five
2 to nothing. Thank you.

3 Items 3 and 4 are moved to the December
4 19th agenda. Items 5 and 6, the Tesla Power
5 project, are moved to the December 19th agenda.

6 Item 7, Central Valley Energy Center
7 Project. Commission consideration of the
8 Executive Director's data adequacy recommendation
9 for the Central Valley Energy Center Project
10 application for certification. Good morning.

11 MR. TRASK: Good morning, Commissioners,
12 I'm Matt Trask, the project manager for the
13 Central Valley Energy Center.

14 The staff attorney on this case, Paul
15 Kramer, is on vacation today, but I have Arlene
16 Ichien sitting in for him. And I have the
17 applicant, Calpine's here, and would probably like
18 to give a short presentation.

19 CHAIRMAN KEESE: Are you giving a
20 recommendation?

21 MR. TRASK: Yes, sir. The staff
22 recommends that the Energy Commission find the AFC
23 inadequate, and adopt the list of deficiencies
24 contained in our inadequacy worksheet package.

25 The Central Valley Energy Center's AFC

1 is data inadequate in 10 of 23 technical areas.
2 The vast majority of these areas are related to
3 additional information requirements, which the
4 applicant should be able to provide with relative
5 ease.

6 However, we have a few major areas, one
7 of which is potential for consultation with the
8 Fish and Wildlife Service. They may be required
9 to do a formal consultation. They are trying to
10 get into an informal consultation, and there is
11 some movement towards that area.

12 The other problem is their transmission
13 system engineering study, PG&E studied the wrong
14 configuration, it wasn't the one proposed in the
15 AFC. They are now restudying it, and hoping to
16 get a study by the 10th.

17 And then they are hoping to become data
18 adequate by the December 19th meeting.

19 CHAIRMAN KEESE: Thank you.

20 COMMISSIONER MOORE: How did that
21 happen? Someone send in the wrong form?

22 CHAIRMAN KEESE: The applicant care
23 to --

24 MR. HARRIS: We'd like to know, as well.

25 CHAIRMAN KEESE: We welcome the

1 applicant, and you might answer that question at
2 the same time.

3 MR. HARRIS: Yes. This is Jeff Harris.
4 I'd like Mike Argentine, who is our project
5 manager, to address that issue.

6 COMMISSIONER MOORE: Well, you're
7 shifting it on.

8 MR. ARGENTINE: Well, basically what
9 happened is when we submitted the application for
10 interconnect -- I'm Mike Argentine with Calpine,
11 I'm the project manager for Central Valley Energy
12 Center.

13 But what happened was when we submitted
14 the application for interconnection with Pacific
15 Gas and Electric Company we included the
16 configuration that we also included into the AFC
17 that the Energy Commission Staff is now
18 evaluating.

19 Unfortunately, when they came back with
20 the system impact study they changed the
21 configuration.

22 So we're currently in the process of
23 meeting with PG&E to try to get them to change it
24 back, and we think we will be successful.

25 COMMISSIONER MOORE: So you don't

1 disagree with the staff's analysis of data
2 inadequacy for the record?

3 MR. ARGENTINE: No, we do not, not at
4 this point.

5 COMMISSIONER MOORE: Mr. Chairman, I'm
6 prepared to make a motion to --

7 CHAIRMAN KEESE: But let me just ask,
8 logistically are you -- you're going to try to get
9 this on on the 19th?

10 MR. ARGENTINE: Yes.

11 CHAIRMAN KEESE: Thank you.
12 Commissioner Moore.

13 COMMISSIONER MOORE: I'm prepared to
14 make a motion -- I will make a motion to accept
15 the Executive Director's recommendation of data
16 inadequacy for this case.

17 CHAIRMAN KEESE: We have a motion by
18 Commissioner Moore.

19 COMMISSIONER PERNELL: Second.

20 CHAIRMAN KEESE: A second by
21 Commissioner Pernell.

22 All in favor?

23 (Ayes.)

24 CHAIRMAN KEESE: Opposed? Adopted five
25 to nothing. Thank you.

1 MR. ARGENTINE: Thank you.

2 CHAIRMAN KEESE: Bring your lunch on the
3 19th.

4 That puts item 8 over.

5 Item 9, Department of General Services
6 is over until the meeting on the 19th.

7 Item 10, California Air Resources Board.
8 Possible approval of interagency agreement 500-00-
9 017, amendment 1, for \$2,410,000 to continue the
10 cost sharing of the purchase of new buses and
11 infrastructure with public school districts. Good
12 morning.

13 MS. FROMM: Good morning. I'm Sandra
14 Fromm, contract manager in the transportation
15 technology division for the low emissions school
16 bus program. Here with me today is Mike Trujillo.

17 We are requesting that the Commission
18 approve the interagency agreement amendment number
19 1 to continue the cost sharing of the new buses
20 purchases and infrastructure with the school bus
21 districts as prescribed by the low emission school
22 bus program.

23 The amount to be transferred is \$2.4
24 million for the budget year 2001 to 2002. This
25 document is phase one of 2001 budget for \$7.5

1 million.

2 Twenty-five school buses were awarded to
3 24 school districts in phase two.

4 COMMISSIONER MOORE: Mr. Chairman, I
5 just have one question, then, --

6 CHAIRMAN KEESE: Commissioner Moore.

7 COMMISSIONER MOORE: -- is do you know
8 the breakdown on the distribution between natural
9 gas, diesel and gasoline?

10 MR. TRUJILLO: It's about two-thirds to
11 one-third. I think we awarded seven CNG buses for
12 seven diesel buses, and there were 15 natural gas
13 buses and two LPG buses.

14 COMMISSIONER MOORE: One of the reasons
15 that I raise this, Mr. Chairman, is that in
16 discussions with the Committee, and this has been
17 the case over the last couple of years -- I know
18 Mike's aware of it -- we've been looking at the
19 retrofit of the diesel buses with some of the
20 filter traps.

21 And there might be information coming
22 out now suggesting that some of the particulates
23 coming out of the CNG are at least worth worrying
24 about in terms of volume. So, --

25 MR. TRUJILLO: There's another portion

1 of this program that ARB is taking care of, and
2 would be to look at the particulates, and also
3 after-treatment for diesel buses that are
4 currently out there, for the school buses.

5 ARB has chosen to administer this
6 portion of it by themselves. So the portion that
7 the Energy Commission would take care of is simply
8 the purchase of certified or qualified buses, new
9 buses.

10 COMMISSIONER MOORE: Right. Mike, the
11 reason I'm bringing it up is because I just want
12 to implant in the minds of my colleagues, and of
13 course, staff, is that one of the things we ought
14 to be worried about is the total emissions from
15 any of these buses. And it will dominate the
16 decision process that we go through as to what
17 kinds of buses to fund in the future.

18 We've made a great effort to focus on
19 CNG as an alternative for cleaner air. We need to
20 keep our eyes on the idea of retrofit of some of
21 the existing bus fleet, especially the diesel
22 fleet, and especially in the rural areas where
23 they really don't have a lot of money to support
24 CNG refueling facilities. Because it may, in the
25 end, be the best overall alternative. So I just

1 want to raise that point.

2 This is a good project. I support it,
3 and I'm prepared to move for approval.

4 CHAIRMAN KEESE: Motion by Commissioner
5 Moore.

6 COMMISSIONER PERNELL: Second.

7 CHAIRMAN KEESE: Second by Commissioner
8 Pernell. Any further conversation?

9 All in favor?

10 (Ayes.)

11 CHAIRMAN KEESE: Opposed? Adopted five
12 to nothing. Thank you.

13 Item 11, Manzanita Elementary School
14 District. Possible approval of contract 600-01-
15 044, amendment 1, for \$129,197, to include an
16 alternative fuel infrastructure and one compressed
17 natural gas bus.

18 MS. FROMM: Good morning, I'm Sandra
19 Fromm, again; contract manager for the
20 transportation technology division.

21 At this time we are requesting that the
22 Commission approve an amendment for the Manzanita
23 School District to provide additional funds for
24 compressed natural gas infrastructure.

25 The school district requested these

1 funds in their original application; however, they
2 were inadvertently left off.

3 CHAIRMAN KEESE: Sounds good to me.

4 COMMISSIONER MOORE: Mr. Chairman, I'm
5 going to move for approval of this, but I just
6 want to say there was a method to my madness in
7 coming to this point. Mike obviously saw it
8 coming.

9 Clearly the infrastructure that's going
10 to be needed to support the natural gas fleet is
11 an issue. And it represents a significant capital
12 cost, especially in times where budget surpluses
13 are diminished or non existent. And where we may
14 have to make do with what we have.

15 So, committing ourselves to a natural
16 gas future when there are a lot of competitive
17 demands for that, not the least of which are some
18 of the power plants that we've been considering
19 this morning. It's got to be seen in a bigger
20 context.

21 This is a good example of the kind of
22 commitment that comes along with the issue of
23 trying to retrofit our fleet.

24 So, we need to keep this in context
25 every single time we make a decision. As I said,

1 this is consistent with what we did in the past,
2 as Ms. Fromm just said, it was an oversight. And
3 we're going to rectify it.

4 But, let's keep the capital expenditure
5 that backs up the buses in mind every time we make
6 one of these decisions.

7 Move for approval.

8 CHAIRMAN KEESE: Motion by Commissioner
9 Moore.

10 COMMISSIONER ROSENFELD: Second.

11 CHAIRMAN KEESE: Second by Commissioner
12 Rosenfeld.

13 Any further discussion?

14 All in favor?

15 (Ayes.)

16 CHAIRMAN KEESE: Opposed? Adopted five
17 to nothing. Thank you, Commissioner Moore, for
18 your comment.

19 MS. FROMM: Thank you.

20 CHAIRMAN KEESE: Item 12, data
21 collection regulations, is off until the December
22 19th meeting.

23 Items 13 and 14 we'll take up together.

24 Item 13, Energy Conservation Assistance
25 Act account. Possible approval of two loans

1 totaling \$2,341,210 to the St. Joseph Health
2 System for installing energy efficient lighting in
3 11 hospitals throughout California.

4 Item 14, possible approval of a loan for
5 \$1,071,000 to Alameda County for a 500 kilowatt
6 photovoltaic system at the Santa Rita Jail.

7 Good morning.

8 MS. LEW: Good morning.

9 COMMISSIONER PERNELL: Mr. Chairman, and
10 I know we have Virginia there to answer any
11 questions, but let me just say that the Efficiency
12 Committee has reviewed the loans and recommend
13 approval.

14 The AB-29X allocated an additional \$50
15 million to augment the Commission's conservation
16 assistance account.

17 To date we've approved about 60 loans
18 totaling \$45 million. And this is coming to you
19 because the remainder is in the ECA account, if
20 I'm correct. And Virginia can help me here.

21 So, we've moved these moneys out. We've
22 been very efficient, in my opinion, of awarding
23 the loans. And I would recommend approval. If
24 there's any questions from this body for Virginia,
25 she'll be happy to address them.

1 COMMISSIONER MOORE: Mr. Chairman, I'm
2 going to second the motion and indicate that we
3 also are supporting this through the renewable
4 accounts, in terms of emerging technologies. And
5 that jail facilities, especially if you look at
6 the rapid expansion of them throughout the state
7 over the last ten years, has been a significant
8 drain on energy facilities, that you can see that
9 there's been a role, and we've stepped up to the
10 plate, as well, matching some of the conservation
11 efforts with programs to supply photovoltaics, for
12 instance, or other emerging renewable facilities
13 to make these more manageable in terms of their
14 electric bill.

15 So, I'm going to second the motion.

16 CHAIRMAN KEESE: Motion, Commissioner
17 Pernell; second, Commissioner Moore.

18 I do have two questions. Number one,
19 how much funding is left in this account?

20 MS. LEW: The existing ECA account right
21 now has about \$20 million. And so these projects
22 will be funded directly out of that account.
23 Because the original funds that Commissioner
24 Pernell had mentioned, the \$50 million, we've
25 issued over 60 loans for nearly all that amount.

1 There's hardly any money left in that account.

2 CHAIRMAN KEESE: Okay. Secondly, I see
3 this pays off at \$119,000 a year?

4 MS. LEW: Yes, the --

5 CHAIRMAN KEESE: So it looks like that's
6 about a nine-year payout, is that --

7 MS. LEW: Correct. Yes. This
8 particular project, Alameda County is also getting
9 an incentive from Pacific Gas and Electric
10 Company. It's a similar buy-down program to the
11 Energy Commission's program in that it will pay
12 for up to half the cost of the system.

13 And so our loan is being used to pay for
14 a portion of the remaining half of the project
15 costs.

16 CHAIRMAN KEESE: Okay, and it will be
17 about a nine-year payback?

18 MS. LEW: It's a nine-year payback based
19 on the Commission's loan amount.

20 CHAIRMAN KEESE: Okay. Thank you. We
21 have a motion and second. Any further comment?

22 All in favor?

23 (Ayes.)

24 CHAIRMAN KEESE: Opposed? Adopted five
25 to nothing. Thank you.

1 MS. LEW: Thank you.

2 CHAIRMAN KEESE: Item 15, Energy
3 Conservation Assistance Act account is moved to a
4 future business meeting. Not necessarily the
5 19th.

6 Item 16, renewable resource trust fund.
7 Possible approval of the \$2,139,192 funding
8 award -- that's a different number than is in the
9 agenda -- funding award agreement for Mark
10 Technologies Corporation's Alta Mesa project phase
11 VII, a 15-megawatt wind propose that was a winner
12 in the renewable energy program's September 2001
13 auction.

14 MS. KOROSEC: Good morning,
15 Commissioners. I'm Suzanne Korosec; I manage the
16 new renewable resources account under the
17 renewable energy program.

18 The project before you today was a
19 winning bidder in our most recent auction for new
20 renewable resources that awards production
21 incentives to new projects up to 1.5 cents cap.

22 One of the rules of that auction was
23 that projects had to receive all of their
24 environmental permits before the Commission could
25 sign a formal funding agreement with the project.

1 This project has met those requirements.
2 It has submitted its environmental impact report
3 to us. We have it on file; we've reviewed the
4 documentation. And we feel that they've met the
5 requirements for the Commission to sign the
6 funding award agreement, and we recommend that you
7 do so.

8 CHAIRMAN KEESE: Thank you.

9 COMMISSIONER MOORE: Mr. Chairman.

10 CHAIRMAN KEESE: Commissioner Moore.

11 COMMISSIONER MOORE: I'm very pleased to
12 offer a motion for approval of this. The program,
13 as you can see, is delivering applications and our
14 recommendation for approval a little bit at a time
15 as people met the test.

16 But, in fact, I invite you to step back
17 just a little bit and look at the success of the
18 total of three options that we've conducted. It
19 has been phenomenal. There's never ever been its
20 equal in anywhere in the world, frankly. No one
21 else has tried this experiment, tried to create a
22 market. And, in fact, offered incentives such
23 that the market responded.

24 Whether or not we've got anything for
25 them to sell into is a little problematic, and I

1 trust that we'll solve that in the upcoming years.

2 But, the response from the private
3 sector has been tremendous. And I offer you this
4 as testament to the success and prowess of the
5 staff in helping craft this wonderful program.

6 Move for approval.

7 CHAIRMAN KEESE: Motion, Commissioner
8 Moore.

9 COMMISSIONER ROSENFELD: Second.

10 CHAIRMAN KEESE: Second, Commissioner
11 Rosenfeld. Any further comments?

12 All in favor?

13 (Ayes.)

14 CHAIRMAN KEESE: Opposed? Adopted five
15 to nothing. Thank you.

16 Item 17, Construction and Use of
17 Emergency Generators report is put over till the
18 December 19th meeting.

19 Item 18, Commission consideration of
20 request by the Planning and Conservation League
21 and several other organizations that the Energy
22 Commission reconsider resolution number 01-1017-02
23 pertaining to waiver of statutory provisions in
24 Public Resources Code section 25552 relating to
25 the four-month licensing process.

1 A workshop was held after our last
2 business meeting. The parties were told that we
3 would consider it here. I know, Mr. Chamberlain,
4 we held the workshop. And I'm aware that after
5 the workshop there was a staff draft resolution.
6 Would you sort of bring us up to date, and the
7 public up to date?

8 MR. CHAMBERLAIN: Yes, Mr. Chairman,
9 thank you. As you will recall in mid to late
10 September the situation was somewhat different
11 than it is today.

12 We thought at that time that as a result
13 of activities by the Power Authority there might
14 be a dozen or more power plants that would be
15 seeking four-month licenses in order to be able to
16 come on line for next summer's peak.

17 And also at that time I think it was
18 believed that next summer's peak might be more
19 difficult to achieve.

20 As things have turned out -- well, the
21 Commission did adopt a resolution. We were
22 considering at that time how to make a smooth
23 transition between the legal rubric that we've
24 been operating under in 2001 with the executive
25 orders and 2002 when we don't anticipate that the

1 executive orders will be in place.

2 And we decided that the best way to do
3 that was to offer to the Commission a resolution
4 that would kind of lay the groundwork for these
5 projects, these anticipated projects, to be able
6 to get four-month processing by getting a
7 determination at the data adequacy phase. And in
8 particular it appeared that the projects that
9 would have the most difficulty with the four-month
10 process were two provisions of section 25552
11 relating to whether major sources could qualify,
12 and also whether they would have to convert later
13 on to a combined cycle or a cogeneration.

14 And so on October 17th you adopted a
15 resolution at the staff's suggestion suspending
16 those two requirements for the projects that we
17 anticipated would come on line.

18 Now, on that date we had two projects in
19 house. The Henrietta and Tracy projects. Those
20 projects had done significant groundwork before
21 even coming to the Commission. Most projects that
22 come into our 12-month process start their
23 processing with the air agencies, as well as our
24 staff, at the point where they file the project
25 here.

1 But those two projects had already done
2 a great deal of work with the air agencies to the
3 point of actually having final determinations of
4 compliance by the time you considered the data
5 adequacy of those projects.

6 And so they not only hit the ground
7 running, they had already been running before they
8 got here.

9 So, as it turns out, the resolution, we
10 qualified those two projects under the resolution.
11 But in essence they probably didn't need the
12 resolution. They didn't need a four-month process
13 under section 25552 in order to be licensed in
14 time for them to come online next summer.

15 After we adopted the resolution,
16 however, a great deal of concern was expressed by
17 various organizations and the public who
18 interpreted the resolution as a significant
19 relaxation of environmental requirements.

20 And as you have mentioned, the Planning
21 and Conservation League and other organizations
22 requested the Commission to rescind the resolution
23 on November 5th, I believe -- no, I'm sorry, on
24 November 14th.

25 You didn't have a full Commission here

1 at that time, and that's the reason that you put
2 this over. We did hold the workshop for about
3 three hours that afternoon, and had significant
4 discussions in which we tried to convince these
5 environmental organizations that the resolution
6 was not a problem. I don't think we succeeded in
7 doing that.

8 But it did appear, since then, that
9 there's really only one other project, besides the
10 two, the Henrietta and Tracy projects, which I've
11 mentioned, can probably be licensed, even under
12 the 12-month process. And, in fact, I understand
13 one of the Committees has moved the project to the
14 12-month process, and is proceeding to license it
15 in accordance with the schedule that seems
16 appropriate, based on where the project is today.

17 The only other project that I'm aware of
18 is the Gilroy project. And that one also could be
19 handled by the Committee, depending on how well
20 Gilroy manages to make progress between now and
21 the spring.

22 So, what you have before you right now
23 is a second draft resolution that proposes to
24 rescind the original resolution. We don't believe
25 it's necessary now because, as a result of changes

1 in the Power Authority's activities, none of these
2 projects, other than perhaps the Gilroy project,
3 and the two that I mentioned before, really need
4 this resolution.

5 And I have received no comments from
6 anyone objecting to this proposed resolution,
7 which, as I understand it, was sent out last
8 Friday.

9 CHAIRMAN KEESE: Sent out to?

10 MR. CHAMBERLAIN: To everyone who was at
11 the workshop, everyone who had expressed interest
12 in the item.

13 CHAIRMAN KEESE: Okay, thank you.

14 COMMISSIONER LAURIE: Mr. Chairman, if I
15 may?

16 CHAIRMAN KEESE: Commissioner Laurie.

17 COMMISSIONER LAURIE: Thank you. First
18 of all, I appreciate my colleagues on the
19 Commission continuing the matter to be heard in
20 light of my absence at the last meeting.

21 I don't think it's necessary to
22 reiterate the discussions that we had in the
23 initial adoption of the resolution at issue. I
24 think Commissioner Moore and I made our points
25 clear, and the reasons for opposing the adoption

1 of the resolution at the initial point.

2 But I believe the issues remain the
3 same. Not only do I believe the initial
4 resolution was unlawful, I think it was
5 unnecessary. And perhaps now there is more of a
6 concurrence of view as to the lack of necessity of
7 such a resolution.

8 If, however, there remains a desire to
9 maintain our current policy and practice of
10 expediting applications to the greatest degree
11 possible, under any and all circumstances, within
12 the confines of our regulations and within the
13 confines of our responsibility to protect the
14 health, safety and welfare of the people, well, by
15 golly, we should continue to do that.

16 But that is the law and that is our
17 stated responsibility. And it's always been my
18 feeling that we have acted in accordance with
19 those principles.

20 It is not necessary to take 12 months to
21 license a 12-month project. The responsibility
22 for setting a schedule is the responsibility of
23 the Committees hearing those cases. It is
24 primarily the responsibility of the Presiding
25 Member of those Committees.

1 If the Presiding Member of the
2 Committee, in concurrence with the Second Member,
3 determines that the characteristics of a case and
4 the circumstances of a case provide for an
5 expedited schedule then that schedule should be
6 set accordingly.

7 If staff is of the view that they cannot
8 meet the schedule because of limitations of
9 resources then it becomes a Commission issue.
10 Then it becomes a resource allocation issue. I am
11 not aware that we have such a resource allocation
12 issue before us.

13 Thus, I believe we should respect our
14 policy and practices currently in place; that is,
15 providing the Presiding Members of the Committee
16 the authority and flexibility to set their
17 schedules based upon the circumstances that they
18 have before them.

19 I have no difficult, in fact I would
20 concur that a case that may otherwise be ripe for
21 a four-month process, but because of the language
22 of our statutes is, in fact, a legal 12-month
23 process, well, if we can get that project done in
24 four months, we should do it in four months. And
25 I fully support that concept.

1 Again, if it requires a resource
2 allocation, then that is a matter of inhouse
3 policy.

4 Thus, I favor a rescission of the
5 earlier adopted resolution. I do not favor any
6 substitute resolution, as I believe the
7 jurisdiction for determining a schedule must be,
8 must be retained in a manner consistent with our
9 regulations; that is, with the Presiding Member of
10 each case Committee. And only becomes a
11 Commission issue if there is a resource allocation
12 problem.

13 Thus, Mr. Chairman, in light of Mr.
14 Chamberlain's comments, -- well, let me not offer
15 a motion at this point, because I'm very
16 interested in hearing the comments of my
17 colleagues before I make any motion.

18 CHAIRMAN KEESE: Yeah, I have four
19 members of the public. I don't plan to take
20 extensive testimony. We've heard plenty of
21 testimony on this before.

22 But, Mr Therkelsen, do you have anything
23 to add to Mr. Chamberlain's statement?

24 MR. THERKELSEN: Not necessarily. I
25 just wanted to -- one of our obligations at the

1 workshop was to look at whether or not there were
2 alternatives, and there was any consensus in terms
3 of alternatives. And what I wanted to do was to
4 provide, I was planning to provide the
5 Commissioners a sense of what the alternatives
6 were that came out of that workshop, and some of
7 the thoughts on those.

8 If you want, I can provide the
9 Commissioners that review of those alternatives at
10 this time?

11 CHAIRMAN KEESE: Briefly.

12 MR. THERKELSEN: Okay. Basically, I
13 think Bill was correct in terms of what he
14 identified the purpose of the workshop was. And I
15 think there was understanding, particularly on the
16 part of the air districts, that there was no
17 intent on the part of the Commission to waive any
18 environmental requirements, any environmental
19 standards. I think that was clearly recognized.

20 Basically after the workshop we saw four
21 possible alternatives for the Commission to do.
22 One is to do nothing, basically let the resolution
23 that you had previously adopted, stand; and to go
24 forward. And by the way, I agree with Bill's
25 comments, there really are only three projects

1 that are in question at this time. The GWF Tracy
2 project, GWF Henrietta project and the Calpine
3 Gilroy Two project, which is currently in data
4 adequacy review. The latter in data adequacy
5 review.

6 The second option was to rescind the
7 resolution and have Tracy and Henrietta revert to
8 a 12-month schedule and have the assigned
9 Committees move forward clearly along the line of
10 what Commissioner Laurie was suggesting.

11 And as Bill properly pointed out, the
12 GWF Henrietta Committee has made a decision to
13 process that project under a 12-month process, but
14 to do it in accelerated four-month schedule. The
15 Tracy Committee, I understand, has not made a
16 decision at this time.

17 One of the things that, you know, would
18 be considered in terms of the committee action on
19 that would clearly be based on the objectives of
20 the project and the issues in the case.

21 The third option looked at was to
22 rescind the resolution and move the projects into
23 a six-month process that provides a clear
24 accelerated timeline in terms of six months; gives
25 a greater probability these projects being

1 processed and to be able to meet their online
2 dates, desired online dates of summer of 2002.

3 But there is a problem with that third
4 option in the sense that it requires a re-review
5 under the six-month data adequacy regulations, and
6 could delay processing of those projects by seven
7 weeks or so.

8 The fourth option that we saw then was
9 to adopt a new resolution, the one that was
10 provided to you to rescind the old resolution; to
11 go ahead and provide clarity in the sense that it
12 indicates the Commission will process those two or
13 three projects under the 12-month process, but
14 that would declare that they would be an expedited
15 schedule, under the discretion of the Committees,
16 based upon the needs and the merits of that case;
17 and the desire to get those projects online for
18 2002.

19 The desirability in terms of having that
20 alternative resolution is it does provide that
21 clarity up front that that statement in terms of
22 what the Committee wants to do provides a clear
23 path for those projects in terms of being
24 available for the summer of 2002.

25 But also provides flexibility in the

1 scheduling based upon how the Committee views the
2 merits of the case, the issues that come up in the
3 case, and the process involved.

4 COMMISSIONER LAURIE: Question, Mr.
5 Chairman.

6 CHAIRMAN KEESE: Commissioner Laurie.

7 COMMISSIONER LAURIE: Mr. Therkelsen,
8 would you agree or not that it is currently the
9 responsibility of a siting committee, a siting
10 case committee, to process a case as
11 expeditiously, as reasonable and as possible,
12 given the characteristics of each case?

13 MR. THERKELSEN: I would agree with that
14 when the characteristics are considered not only
15 the objectives of the projects, the issues
16 involved, the public participation, and as you
17 mentioned earlier, the other resources, needs of
18 staff in terms of other workload and other
19 projects that are going on.

20 COMMISSIONER LAURIE: Okay, so that is
21 what the siting case committees are currently
22 doing.

23 MR. THERKELSEN: To the best of their
24 ability, that's what I understand.

25 COMMISSIONER LAURIE: Thank you.

1 CHAIRMAN KEESE: Your discussion with
2 Commissioner Laurie, is that consistent with the
3 final staff draft that we just --

4 MR. THERKELSEN: In terms of the
5 resolution? I think the staff draft resolution
6 basically reiterates the fact that the desire is
7 to move these cases into the 12-month process.

8 CHAIRMAN KEESE: And that it rests with
9 the committee that's assigned to the case?

10 MR. THERKELSEN: Yes, but it also makes
11 it very clear the desire is to expedite those
12 projects to the extent possible.

13 CHAIRMAN KEESE: Okay. Mr. Larson.

14 MR. LARSON: Mr. Chairman, I'd like to
15 underline the resolution that's been presented to
16 you in terms of your consideration of it, in terms
17 of the clarity, the issue. And that I think that
18 adoption of this resolution will send a signal
19 that I would agree with Commissioner Laurie that
20 within the context of the authority already vested
21 in the Commission, that you can do this.

22 But I think that to see it in black-and-
23 white in print, given the times that we're living
24 through, I think that it sends a signal that would
25 be very positive in terms of the environment that

1 we're facing. And I would urge you to consider
2 very seriously the resolution.

3 COMMISSIONER LAURIE: Let me make
4 inquiry with that, Mr. Chairman. Signal to who,
5 Mr. Larson?

6 MR. LARSON: The public.

7 COMMISSIONER LAURIE: That what?

8 MR. LARSON: That we are really
9 committed to doing things as fast as possible.

10 COMMISSIONER LAURIE: Well, I would beg
11 to object. We have been sending signals since
12 January of 1997 that we have been doing things as
13 fast as possible. I think no new signals need be
14 sent. And I'm not anxious to send any more new
15 signals. I think we've given more than enough
16 signals, and I think we've sent more than signals.
17 I think we have acted. And I think we have acted
18 within the law; I think we have acted within our
19 regulations; and I think we have acted within our
20 moral and ethical authority. And I think we
21 should continue to do so.

22 I don't believe any more political
23 signals need to be sent.

24 MR. LARSON: I certainly think that
25 certainly we have acted firmly and with authority

1 in the siting of projects throughout the -- since
2 1997 or even before that. And I don't disagree
3 with you, Commissioner, that we've lived up to our
4 responsibilities.

5 But I do think that if you look at just
6 generally the complexity of the crisis that we've
7 been through, many different agencies involved,
8 many different parties involved, that very often
9 clarity can be given by a clear statement. And
10 even if it does represent the fact that we've
11 already lived up to our responsibilities.

12 I just look at it as sort of the extra
13 added increment. And there are other times that
14 it seems to me that it's useful for the Commission
15 to state as clearly as possible, or restate, or
16 restate again, you know, in terms of the public,
17 you know, what we stand for and where we're going
18 with these policies.

19 CHAIRMAN KEESE: Thank you. What I'm
20 going to ask -- I have five members of the public
21 who indicated an interest in speaking to this --
22 what I'm going to ask is for them to briefly
23 comment on I think it's two issues.

24 The issue that has been raised by
25 Commissioner Laurie is an issue that we should

1 merely rescind the previous action. The other
2 issue that's presented to us somewhat is the final
3 staff draft.

4 I will say at the outset that I have
5 received two communications regarding what was
6 dated the November 29th final staff draft. I
7 received a communication from Barry Wallerstein of
8 the South Coast District, endorsing the adoption
9 of that draft. And we received a communication
10 from Senator Bowen's Office indicating agreement
11 with the final staff draft.

12 Ms. Spelliscy, you started -- you were
13 put in trust of the leadership role on this three
14 weeks ago. And I believe you did participate in
15 the workshop. Can you give us your opinion,
16 briefly, of these two courses of action?

17 MS. SPELLISCY: Yes, thank you, Mr.
18 Chairman. Sandra Spelliscy with the Planning and
19 Conservation League. I apologize for coming in
20 late; I had a flat tire this morning
21 unfortunately. So I missed a bit of the
22 discussion.

23 But for our purposes I think
24 Commissioner Laurie's approach of simply
25 rescinding the resolution certainly would do what

1 we think needs to be done. In terms of the draft
2 staff proposed resolution, I'm not sure I would
3 have worded some of the things in the resolution
4 the way they were worded. I think beyond a public
5 misperception there were substantive legal and
6 policy issues at stake here which, you know, I
7 think needed to be addressed.

8 But, regardless, I think one thing that
9 all of us can agree on is that changed
10 circumstances over the past six or seven weeks now
11 bring us to the point where the previous
12 resolution is unnecessary.

13 And so for that reason alone it's
14 appropriate for you to take some type of action
15 this morning. Either simply rescinding the
16 resolution or moving forward with the proposed
17 resolution you have there. And we would urge you
18 to do that.

19 And, again, I just want to thank the
20 Commissioners, their Advisors and the Staff here
21 at the Commission for listening to our concerns
22 and for working with us on this issue.

23 CHAIRMAN KEESE: Thank you. I think I
24 heard you say do one or the other, and that you
25 would have made some minor language changes. But

1 essentially the content of the final staff draft
2 does not offend, is that --

3 MS. SPELLISCY: As I said, I don't think
4 I -- there were things in there that I would not,
5 that I would have worded differently.

6 CHAIRMAN KEESE: In the preamble? In
7 the whereas clauses?

8 MS. SPELLISCY: Yeah, I mean I do
9 believe there --

10 CHAIRMAN KEESE: But the --

11 MS. SPELLISCY: But ultimately what it
12 does, and I don't disagree with the notion that
13 the Commission has the ability to move within the
14 statutory siting processes it has to. Obviously
15 move more quickly when possible as long as all the
16 statutory and regulatory guidelines and deadlines
17 and those sorts of things are met.

18 So, you know, probably our preference
19 would be Commissioner Laurie's approach, but
20 either way would do the trick.

21 CHAIRMAN KEESE: Okay, thank you. Anne
22 Simon.

23 MS. SIMON: Thank you, Chairman Keese.
24 Anne Simon, Communities for a Better Environment.
25 And we also would like to thank the Commission and

1 the staff for taking our concerns seriously, and
2 the staff for putting together the workshop and
3 the workshop report on this issue.

4 Like the Planning and Conservation
5 League, we support the Commission doing something
6 to rescind the prior resolution. We believe that
7 straight rescinding would be better than the staff
8 draft for two reasons. One that Ms. Spelliscy
9 pointed out, about some of the whereases.

10 The second point that we made previously
11 which is that the staff draft, in its resolution
12 clauses, focuses exclusively on the legal
13 requirements of your statutes in California
14 Environmental Quality Act. And as we pointed out
15 previously, there are independent requirements of
16 the federal Clean Air Act that may also apply to
17 these and other projects.

18 So simply as a drafting matter, a
19 straight rescission of the prior resolution would
20 solve the problem that we all came to you with,
21 without creating another resolution that may
22 appear accidentally, we believe, not
23 intentionally, to focus on one rather than all of
24 the legal obligations of the Commission.

25 But as a matter of substance in dealing

1 with the problem that was brought to your
2 attention initially, we, too, think that both
3 would do the job.

4 And thank you very much for your
5 consideration.

6 CHAIRMAN KEESE: Thank you. Fern Feto.

7 MS. FETO: Hello. My name is Fern Feto;
8 I'm here with Greenpeace. And we also would like
9 to thank the staff and the Commission for taking
10 another look at the resolution that was passed
11 back in November.

12 Just want to reiterate a couple of the
13 comments made by Communities for a Better
14 Environment and also the Conservation League. And
15 add to that that in the new resolution that it was
16 particularly noted that there was a public
17 misperception regarding harm to the environment.

18 And we wanted to note also some of
19 Commissioner Laurie's concerns that the previous
20 resolution did, in some areas, overstep some of
21 the Commission's bounds.

22 So, ideally that would have been
23 incorporated into the present resolution.
24 However, Greenpeace does support this resolution;
25 it supports the overturning of the previous

1 resolution.

2 And thank you for your time.

3 CHAIRMAN KEESE: Thank you. Mr. Jeff
4 Harris.

5 MR. HARRIS: Thank you, Commissioners.
6 Jeff Harris. We would not support rescinding the
7 resolution. I'm here on behalf of Calpine
8 Corporation.

9 There are a couple things that I think I
10 find particularly troublesome, but I'm reading the
11 handwriting, let me keep it pretty brief.

12 CHAIRMAN KEESE: Appreciate that.

13 MR. HARRIS: First and foremost, on the
14 legal authority, there's no question in my mind
15 you have the legal authority to do what you
16 proposed to do in the initial resolution. If you
17 choose not to do so you obviously have that legal
18 authority, as well.

19 But I want to be clear on that. Even
20 the staff's new recommendations don't challenge
21 your authorities under the Emergency Powers Act,
22 under the Warren Alquist Act and under the
23 executive orders in effect, even today. And so
24 that point I wanted to make very clear, that we
25 would disagree with anything that would suggest

1 that somehow you don't have the authority to do
2 this.

3 The second issue that I see with the
4 resolutions, and with really the opposition on
5 this, that I think while it's been well intended
6 it has been, in some ways, not representing the
7 facts, I think, from the environmental perspective
8 correctly. And I want to set the record straight
9 on that because I think it's important that the
10 Commission recognize that part of the public
11 misperception that you're trying to deal with here
12 is the misperception that simple cycle projects
13 are somehow environmentally inferior or cause
14 environmental damages that combined cycles do not
15 cause.

16 And I think that's the biggest concern I
17 have about the Commission backing away from the
18 resolution, is that you may leave that impression.

19 As is alluded to in the resolution, even
20 in the four-month process you're in full
21 compliance with all the environmental laws. And
22 even in the 21-day process, which nobody wants to
23 go back to ever again, please, even in that
24 process the Clean Air Act was fully complied with.
25 And the perception out there is that there were

1 shortcuts.

2 I marked down in my notes last time how
3 many times I heard the word shortcuts or cutting
4 corners. None of that happened. And that won't
5 happen with simple cycle power plants in the
6 future. And so I wanted to make sure that we're
7 all clear that if you want to oppose this for
8 policy reasons, that's fine. But if you want to
9 couch that in terms of clean air impacts, I think
10 it's patently false. And I think it's totally
11 misleading.

12 I also think simple cycle is, in some
13 ways, environmentally preferable. And that is not
14 reflected in the resolution.

15 We talked last time about, you know,
16 first and foremost these projects have to fully
17 mitigate their impacts. If there are air impacts
18 of these projects they buy offsets, they go
19 through every compliance requirement of the Clean
20 Air Act. They're fully mitigated. You know,
21 unlike a housing development, these projects are
22 fully mitigated. That gets lost in the noise.

23 These projects, the new simple cycle are
24 more efficient than the older ones; they'll
25 replace older units; they'll also replace the need

1 for diesel. And we've all seen the public health
2 impacts of diesel.

3 And so to attack, I think, simple cycle
4 as somehow environmentally unfriendly, to me is
5 probably the biggest negative to come out of this
6 project. And I also think it points to a policy
7 implication that no one's stated. If you're going
8 to push everything towards simple cycle, you're,
9 by definition, pushing, I think, back towards the
10 large central station model. You're pushing away
11 from DG, which I don't think this Commission is
12 doing, but the folks who want to attack simple
13 cycle need to take that policy implication into
14 consideration.

15 Finally, in terms of the specifics of
16 the resolution, part of the frustration from a
17 power plant siting attorney's perspective, not
18 just from my clients', is that we've seen, you
19 know, the 21-day process go away, thank god; the
20 four-month process is now leaving. What I don't
21 see reflected in this resolution is discussion of
22 the six-month.

23 And I'm not clear as to why a project
24 which is moving out of the four-month process
25 would automatically go into the six-month process.

1 There is another process in place at the
2 Commission. And I think that's not reflected in
3 the resolution. And some of these projects that
4 could have qualified for the four-month process
5 may, in fact, be candidates for the six-month
6 process. So I think that's a bit of an oversight.

7 The frustration from an applicant's
8 perspective is that we are now moving towards
9 pretty much everything being in the 12-month
10 process. To the extent that there are six-month
11 projects out there, there are a lot of pressures
12 to move those projects into the 12-month process.

13 Those pressures, I think, come from two
14 things. Number one, third parties. None of us
15 control Fish and Wildlife Service or PG&E or other
16 folks who have to give you valuable input. That
17 often pushes you out of a six-month deadline.

18 But the other issue that I wanted to
19 raise in moving projects from four- to six- to 12-
20 months is the staff resource issue. There's at
21 least a perception in the development community
22 that there is a staff resource problem.

23 We've actually had discussions with
24 folks where we've been told that we can't have
25 workshops on this day because that project manager

1 has to be here instead of here. So, I would urge
2 you to take the view of that staff resource
3 problem. Your staff is killing themselves, I
4 think they're working very hard. They really are.

5 You know, you will find people here
6 after 5:00 when you call here; and you'll find
7 people here on weekends. And I know they're
8 working very hard. I still think you have a
9 resource problem. And that's being communicated
10 back down through the chain. So I wanted to get
11 that out on the table for your consideration, as
12 well.

13 So, with that I'll answer any questions.

14 COMMISSIONER LAURIE: Mr. Chairman, I
15 would --

16 (Parties speaking simultaneously.)

17 COMMISSIONER LAURIE: -- to comment
18 briefly on the comments.

19 The question of the comments by Mr.
20 Harris on the six-month process, you know, I have
21 indicated previously that I'm not satisfied with
22 our six-month process. I think the six-month
23 process, as originally conceptualized by us, is
24 not what we ended up with. And I think that's why
25 we ended up with so few projects being submitted

1 under that statute.

2 And I would hope that the Commission
3 would take another look to see how we can make the
4 six-month process better.

5 As to the issue of resource allocation.
6 I think the way the system is supposed to work is
7 a siting case committee should process any case in
8 a manner as expeditiously as possible. Therefore,
9 a 12-month case should be able to be processed in
10 a four-month time period.

11 And that would be in the discretion of
12 the siting case committee. If there is objection
13 it's really up to the full Commission to set a
14 schedule even over the objection of the Presiding
15 Member, if appropriate.

16 But, if there is staff objection because
17 there is an argument that because now the heat is
18 off and therefore the Presiding Member's schedule
19 need not be complied with because of resource
20 limitations, then I agree, that is a Commission
21 problem. It's a problem for the full Commission;
22 it's a problem for the Executive Director.

23 So what would happen if I were a
24 Presiding Member of a Committee and my schedule is
25 set to process a case as expeditiously as

1 possible, and we're not getting it done because of
2 staff limitations, well, then I, as Presiding
3 Member, have to go have a discussion with Mr.
4 Larson and Mr. Therkelsen to insure that there are
5 appropriate resources being made available.

6 If Commission-wide we have inadequate
7 resources, then that is a different issue. And at
8 that point it is up to us, upon recommendation of
9 a siting committee, the siting committee, to
10 establish priorities for staff. I don't think
11 that's necessary to do now.

12 If I set a four-month schedule I fully
13 expect that that schedule would be complied with.
14 And I have no reason to believe that it would not.

15 So the principles that Mr. Harris brings
16 up, I think, are correct, practically speaking, I
17 do not believe in those projects that are under
18 discussion -- because I'm Presiding Member of
19 Gilroy; I'm Second Member on Tracy -- I have every
20 reason to believe that the schedule set by the
21 Presiding Member shall be complied with. If I
22 thought otherwise then I would be concerned and
23 I'd be bringing those issues forward.

24 Thank you.

25 CHAIRMAN KEESE: Thank you.

1 Commissioner Pernell, you had a question?

2 COMMISSIONER PERNELL: Mr. Harris, is
3 there anything in our -- any reason for you to
4 believe that the 12-month process cannot license a
5 plant in four or six months?

6 MR. HARRIS: Since I'm punting all day,
7 I intended to punt this over to Mr. Chamberlain.
8 But there are some, actually I think some
9 statutory limitations in terms of how many days
10 before evidentiary hearings can begin; how many
11 days for decisions; comments on PMPDs. I have not
12 done the math, myself, to figure out what those
13 would be.

14 But I think the answer basically is yes,
15 that you couldn't do a 12-month process in two
16 months, for example. I know that with confidence.
17 And I think 90 days is the beginning of
18 evidentiary hearings, if I'm remembering that
19 correctly, so three months would be the earliest
20 you could start having hearings.

21 And so there are limitations. And
22 that's why the omission of the six-month process,
23 to me, is a very big omission in this resolution.
24 Because the six-month process does allow for
25 things to happen, I think, quicker.

1 COMMISSIONER PERNELL: So that if a --
2 just a follow-up, Mr. Chairman -- if an applicant
3 comes in with all of the necessary requirements in
4 terms of environmental requirements, land use,
5 zoning, everything that they need, is there a
6 problem with the four- or six-month process?

7 I mean because a lot of this, at least
8 from my experience, is backwards and forth between
9 staff and applicant not having all of the data
10 requirements.

11 So, if, in fact, an applicant wants
12 their project expedited, and they so demonstrate
13 by having all of their requirements in order when
14 it comes to us, why wouldn't it be appropriate for
15 us to do a four- or six- or expedite the process?

16 COMMISSIONER MOORE: Mr. Chairman,
17 before Mr. Harris gets on the line to answer --
18 the hook to answer that, --

19 CHAIRMAN KEESE: Or Mr. Chamberlain.

20 COMMISSIONER MOORE: Or Mr. Chamberlain,
21 let me just say that in the comments that have
22 been made before, the answer to Commissioner
23 Pernell's question has been embedded, but perhaps
24 not explicit.

25 And it lies, first of all, in what Mr.

1 Harris said about the timing. We went back and
2 did a calculation earlier about what would be
3 possible, given the 15-day notice requirements for
4 hearings, the actual amount of time that a PMPD
5 has to circulate, the amount of time that people
6 have to have for the digestion of new information
7 during the evidentiary hearings, and the amount of
8 time that has to pass between the preliminary
9 staff assessment, the hearings, and then
10 publishing the final staff assessment.

11 So, from that mechanical process alone
12 you end up somewhere awfully close to six months,
13 very very close, and when you've got any slippage
14 at all for days off or something that was
15 unaccountable.

16 Now, when you add to that the real
17 difficulty, which is the PDOC for the air
18 districts, and the Fish and Game requirements that
19 typically get pulled in from the federal
20 government, or the need for interconnect
21 agreements for federal agencies such as WAPA,
22 you've added on an amount of time that is not
23 calculable, because it varies. It simply varies
24 from agency to agency what their workload is, what
25 their opinion of the project is apparently,

1 because they don't always get back to us in time.

2 And a tremendous imponderable, which is
3 now making itself known in the Central Coast case,
4 which I'm not going to discuss in detail because
5 it's open right now, but let me just say that when
6 an agency such as Regional Water Quality Control
7 Board takes it upon itself to conduct an
8 independent series of hearings, and cannot or will
9 not render a judgment before some set date, and
10 they're on different timelines than we are, the
11 case becomes suspended. Literally suspended,
12 because you do don't have the data that you need
13 to act.

14 And you can only make so many
15 prejudgments about what you will condition in an
16 approval or a recommendation for approval if it's
17 the will of the Committee at the end.

18 So, while it may be the will of the
19 Committee to move the timing to the smallest
20 fraction possible, as a practical matter, the
21 number of calendar days elapse, you won't be
22 looking at times that are less than six months.
23 And, in fact, you may find yourself looking at
24 times that are an extension of 12 months, even
25 going as rapidly as possible. Largely because

1 many of the information wells in which you will
2 dip are out of your control.

3 And so I'm not trying to throw cold
4 water on it. We had a situation in which many
5 agencies were lashed together with a common
6 purpose at the first part of the executive orders
7 coming out. That was the advent of the 21-day
8 rule, and the first four-month rule.

9 There was a common perception that we
10 were in -- faced what I can only term a clear and
11 present danger, at least that's what I believe the
12 executive thought. It becomes clearer, as we move
13 on now, that we are not faced with a clear and
14 present danger. That, in fact, there is enough
15 market evidence to suggest that people are pulling
16 back from some of their commitments. And as a
17 consequence some of the force that would be
18 driving the applicants, that mysterious angst that
19 causes them to respond very very quickly and with
20 a lot of information when needed, is simply
21 missing.

22 So, we have a lot of components here
23 that have to come together to make the timing as
24 short as possible. The Committee can control
25 their own resources and can control their own

1 time. But they cannot control the other agencies.
2 And that's what will defeat the shortest possible
3 theoretical timeline in the end.

4 COMMISSIONER PERNELL: Commissioner
5 Moore, I agree; however, I'm not sure that it
6 addressed my question, which is all of those
7 agencies you're talking about, if an applicant
8 wants an expedited process, and under our four-
9 month or six-month -- well, certainly four-month
10 rule that it can't be anything hanging out there
11 that would slow this process down.

12 But if the applicant came in and had all
13 of those, or had a project that didn't necessarily
14 have to go through some of the agencies that
15 you've mentioned, then there would be no reason
16 why the Presiding Committee couldn't expedite the
17 process.

18 COMMISSIONER MOORE: Right. I
19 theoretically agree with that, but as a practical
20 matter you've got two glitches to that. And
21 they're both involved with agency decisions that
22 those agencies feel they cannot make until they
23 see at least our preliminary record of decision.
24 That they won't act.

25 That includes some of the zoning changes

1 that local government wants to make; or changes to
2 the general plan where they'll say, look, this is
3 our intention but we're not going to make the
4 change until we see your documents. A "Catch-22"
5 that we get into with a lot of cases.

6 And the second is in the air quality
7 area and in the water quality area where the
8 agencies have some sense of rules regarding water
9 quality or air quality changes that cannot be made
10 by resolution of their bodies technically until
11 they see a proposed decision from us.

12 So, it's convoluted, but you can't get
13 around that unless there's change in state law or
14 something.

15 COMMISSIONER PERNELL: All right, I
16 don't have any other questions. But, you know, a
17 zoning change would not get out of one of the
18 expedited processes. So, again, I agree that
19 there are types of -- and certainly the applicant
20 has the wherewithal to withstand all of those
21 different agencies. And we applaud that.

22 But in terms of what's before us today
23 is given all of the circumstances and given why we
24 came to the conclusion or the resolution in the
25 first place, which was to get additional

1 generation up in '02, there is nothing preventing
2 us from doing that under our existing regulations.

3 CHAIRMAN KEESE: Very briefly, Mr.
4 Harris.

5 MR. HARRIS: Yeah, I'm sorry. I think
6 there are two components that can affect your
7 schedule in a 12-month or a six-month process.

8 Number one, are the statutory deadlines;
9 an I count at least four, six months worth of
10 timing sounds correct. So if somebody brought you
11 a fully baked cake and said, process it, I don't
12 think you could do it any quicker than six months
13 if you hit your regulations. So that first part
14 is completely nondiscretionary, statutory time
15 limits. And I think that's at least six month;
16 and a 12-month process is probably at least two
17 and maybe three in the four-month process. So,
18 that's immovable.

19 And then the second component is the
20 variable that Commissioner Moore mentioned.

21 And so I think that there are some
22 significant obstacles to you using a 12-month
23 process to get something through quickly.

24 CHAIRMAN KEESE: Mr. Therkelsen, is
25 that, do you generally concur or --

1 MR. THERKELSEN: I generally concur with
2 the statements. Our experience is that typically
3 a 12-month process, the shortest that you can do
4 it is probably between six and eight months, given
5 the process, given the other agencies.

6 And I'm going to apologize, perhaps, for
7 jumping in on this, but some of the conversation
8 does disturb me a little bit. And one of the
9 things that I think is very important for you to
10 know is you have one of the most dedicated and
11 professional staff I have ever seen is working in
12 the siting program.

13 These people are doing super jobs. And
14 Jeff was correct, they are working themselves
15 right and left; not only in the siting division,
16 but in the general counsel's office and in the
17 hearing officers' office.

18 One of the things I think that's very
19 important for siting case committees to keep in
20 mind is the process the applicant enters into
21 establishes expectations on the part not only of
22 the staff, but agencies and the public.

23 If somebody files for and receives a 12-
24 month data adequacy decision people expect that
25 12-month process is what is going to be used. In

1 staff's process, the work we do and everything
2 else is geared for approximately that timeframe,
3 the public's process, the agencies' process.

4 When you, as individual siting case
5 Commissioners, try to shorten that too much,
6 especially if you're doing it on multiple cases at
7 the same time when there's a very high workload,
8 you're going to add a lot of stress to people not
9 only in this organization, but in other
10 organizations, that may not be necessary --

11 CHAIRMAN KEESE: I understand that. I
12 think, we're talking, you know, --

13 MR. THERKELSEN: If we're talking about
14 a few cases --

15 CHAIRMAN KEESE: -- we're talking about
16 three cases here --

17 MR. THERKELSEN: -- and we establish
18 that up front, I think that's a very --

19 CHAIRMAN KEESE: -- and we've
20 established that up front.

21 MR. THERKELSEN: Okay, but if I just --

22 CHAIRMAN KEESE: Okay.

23 MR. THERKELSEN: -- I'm just concerned
24 about a feeling that every 12-month case comes in
25 we can do it in four months, I would warn against

1 that.

2 CHAIRMAN KEESE: I don't think we have
3 to expand this conversation very much. I can tell
4 you, I'll give you a personal experience as a
5 Commissioner, because it applies to us, too. I
6 had four weeks of December blocked out for
7 hearings. All of those hearings have slipped.
8 Now I have to put four months of hearings into
9 January and February, which were booked going in.

10 So, I understand the problems of the
11 staff absolutely, because we're bringing cases up
12 and we're juggling to see when we can fit them in.
13 Will you give up a couple days so we can do a
14 couple days here. And, the expectation, i would
15 be nice if everything could stay right on the
16 schedule you laid out for it, and it could be as
17 expedited as you want. But things are going to
18 happen in this.

19 Thank you, Mr. Harris. Mr. Addison.

20 MR. ADDISON: Good morning, Chairman and
21 Commissioners. I will be brief.

22 COMMISSIONER PERNELL: Good morning.

23 MR. ADDISON: You've had quite some
24 discussion this morning on this with a diverse
25 range of views expressed.

1 I want to get back to the two issues
2 that you raised, Chairman, --

3 CHAIRMAN KEESE: For the record?

4 MR. ADDISON: My name is Tom Addison;
5 I'm with the Bay Area Air Quality Management
6 District. I'm actually here today not only on
7 behalf of my agency, but also the statewide
8 association of air districts, the California Air
9 Pollution Control Officers Association.

10 And just to make clear, the letter that
11 you referred to earlier is actually from the Air
12 Districts statewide, the statewide association.
13 It was sent on behalf of the statewide
14 association.

15 CHAIRMAN KEESE: Thank you.

16 MR. ADDISON: In response to the two
17 issues that we raised, I've come here today to
18 speak in support of the final staff draft
19 resolution that's before you.

20 Now, there's been discussion about that
21 approach versus other approaches. We're neutral
22 on that. We see that as your issue. But I'm here
23 today to support the final staff draft resolution
24 and the effect that it has.

25 In terms of the process that we've gone

1 through, I want to express my gratitude both to
2 the Commission and the staff for having that
3 workshop, for giving us the opportunity to have an
4 exchange of views, so we could see what it was
5 that that the staff was trying to accomplish; and
6 they could, in turn, hear from us about our
7 concerns with the initial actions that the
8 Commission took.

9 And that was really in the experience of
10 the air districts, and we got a number of air
11 districts to participate in that meeting, a very
12 helpful opportunity for us. And that's
13 appreciated.

14 So, that's really what I'm here to leave
15 you with today. Thanks for the consideration of
16 our views in the process. And we support the
17 staff draft resolution that's before you.

18 CHAIRMAN KEESE: Thank you. Appreciate
19 it. Commissioner Moore, you put your oar in
20 first. Do you want to make the first motion,
21 or -- I would summarize by saying I have not --
22 I've heard druthers expressed. I've heard nobody
23 who objects in particular to anything in the staff
24 draft. I've heard environmental groups who would
25 prefer to see just a rescission.

1 I have been convinced perhaps it was
2 Senator Shur whose words to me were a deal's a
3 deal. You can't go forward on the four month.

4 So, I personally am of a mind that we
5 have to dispense with the four-month process and
6 go forward.

7 I think did we have a consensus -- what
8 we have is a disagreement up here. At least we
9 had a disagreement going in as to whether the
10 Commission should merely rescind, or should adopt
11 the final staff draft.

12 COMMISSIONER PERNELL: Mr. Chairman, --

13 CHAIRMAN KEESE: I'm not totally uptight
14 on this, either. Commissioner Pernell.

15 COMMISSIONER PERNELL: Mr. Chairman,
16 I'll start off here. First of all I think that we
17 can accomplish the goal of the first resolution in
18 our existing regulations, in our existing
19 structure.

20 Secondly, I think that we should -- when
21 we start talking about sending a message I don't
22 think that it's just the -- it should be a mixed
23 message, or it shouldn't even have any noise in
24 it. I think the clear message to send is rescind.

25 Having done that, then we can begin to

1 discuss how do we go forward, and how do we make
2 sure that all of the environmental requirements of
3 CEQA are addressed as we go forward with
4 expediting projects.

5 I agree with Commissioner Laurie that it
6 should be a Committee decision based on the facts.
7 When we do it that way we have the communities
8 involved, as well, because they are at those
9 hearings. So I think it's fair to do that.

10 The other thing I want to mention here
11 is that rescinding a resolution with a resolution
12 doesn't really move me much. I mean you're adding
13 more bureaucracy. Bureaucracy is confusing
14 enough. And to add more bureaucracy to that I
15 don't think it's needed and it's counter
16 productive.

17 I would be, after my colleagues on the
18 dais make their statements, I would certainly move
19 that we rescind the resolution not with another
20 resolution, but strictly rescind, and then begin
21 the discussion of where do we go from here.
22 Because the clear message to send is to rescind.

23 So, Mr. Chairman, once we're done I am
24 prepared to make that motion.

25 CHAIRMAN KEESE: Now sounds like a good

1 time.

2 (Laughter.)

3 COMMISSIONER PERNELL: Mr. Chairman,
4 having heard the facts and having heard the
5 concerns of not only other agencies, but of the
6 general public, I would move that resolution 01-
7 1017-02 be rescinded.

8 CHAIRMAN KEESE: Motion by Commissioner
9 Pernell.

10 COMMISSIONER LAURIE: Second.

11 CHAIRMAN KEESE: Second by Commissioner
12 Laurie.

13 Any further discussion?

14 All in favor?

15 (Ayes.)

16 CHAIRMAN KEESE: Opposed? Adopted five
17 to nothing.

18 COMMISSIONER ROSENFELD: Mr. Chairman,
19 I'm glad we got our five to nothing vote. I'm,
20 like you, not uptight about it. On the other
21 hand, the staff went to the trouble of making its
22 final report, and we do have some support for it.

23 I move that we -- and there's no
24 contradiction -- I move that we adopt the staff
25 report.

1 CHAIRMAN KEESE: Motion by Commissioner
2 Rosenfeld.

3 COMMISSIONER MOORE: Adopting the staff
4 report, let me be sure --

5 CHAIRMAN KEESE: The final staff draft
6 resolution.

7 COMMISSIONER ROSENFELD: The final staff
8 draft resolution dated November 29th.

9 COMMISSIONER PERNELL: This is the --

10 COMMISSIONER ROSENFELD: Lots of
11 whereases and --

12 CHAIRMAN KEESE: I'm going to second
13 that so we can carry on this discussion.

14 COMMISSIONER LAURIE: Mr. Chairman.

15 CHAIRMAN KEESE: Commissioner Laurie.

16 COMMISSIONER LAURIE: I do not intend to
17 support the motion for the following reason. I'm
18 certainly not going to support the motion simply
19 because staff worked on it. And I respect that.

20 But the question is does the resolution
21 add or detract. My reading of the resolution says
22 to the world that we are going to do our job. And
23 staff is suggesting that we say that.

24 With all due respect, I won't go so far
25 as to say that I resent that; I will go so far as

1 to say that I don't need that. I think that our
2 signals are in our actions. And our actions have
3 been in the efficient and effective manner in
4 which all of us, the Commission and the staff,
5 have been working on these issues for the last
6 many years.

7 And the resolution adds nothing to that.
8 It says that we will move as expeditiously as
9 possible, and we all plan to do that. But I don't
10 want to take that authority away from the
11 Commission and the individual Presiding Members of
12 each case Committee. This resolution doesn't deal
13 with that authority. That is, it doesn't grant
14 any extraordinary powers.

15 But it does signal that the discretion
16 is somehow lessened in the hands of the Presiding
17 Member of each case Committee. And I would not
18 like to see any additional powers of this
19 Commission taken away, any additional powers of
20 any Presiding Member taken away.

21 COMMISSIONER MOORE: Mr. Chairman.

22 CHAIRMAN KEESE: Commissioner Moore.

23 COMMISSIONER MOORE: With all due
24 respect to Commissioner Rosenfeld, and I
25 understand what he's trying to do with this, I'm

1 not going to support the motion. And I want to
2 underline one paragraph that goes to remarks that
3 Commissioner Pernell made. It's the second-to-
4 the-last.

5 It says that if additional applications
6 for certification of natural gas fired, simple
7 cycle projects are filed and can be on line, et
8 cetera, et cetera, that the Committee will
9 consider all relevant factors, including but not
10 limited to whether they have an online date, and
11 will then process them in as expeditious a manner
12 as possible.

13 It seems to me that had we not had the
14 discussion that we did here at the dais, this
15 might have been additional clarification. But I
16 think we've heard from virtually -- well, and
17 Commissioner Rosenfeld, weighing in in favor of
18 this resolution, seems to me we've heard from
19 unanimous consensus of the Commission that this is
20 our intent. And I think we don't need the
21 resolution to help us go there.

22 And it seems to me that since it also
23 refers to what we've done already in a separate
24 motion in a very simple way, I'm not sure that
25 this isn't just not needed at this point.

1 Although I understand the sentiment in which it's
2 offered.

3 CHAIRMAN KEESE: Thank you, Commissioner
4 Moore. My reason for supporting the staff draft
5 is not merely to allow those in the audience who
6 will go back and report to their constituencies to
7 report that they have something in writing, and
8 this is clearly what the Commission did.

9 But there was definitely a perception
10 our there that whether there were facts underlying
11 the perception or it was, I won't argue it was
12 just total misperception, but there were certainly
13 aspects of misperception out there.

14 And to merely rescind a previous action
15 I don't believe does much to clear up the factual
16 understanding. I believe the workshop did a lot,
17 as we've heard, to clear up the misunderstandings
18 of what each of the interested parties were trying
19 to do.

20 I believe the fact that we have a staff
21 draft in which there is general concurrence with
22 the tenor of it, albeit a number of points raised
23 that it should have included more or it should
24 have included a little less. I believe that that
25 helps.

1 So, maybe the workshop has allayed all
2 the concerns and everybody now understands where
3 everybody is. Maybe the existence of this draft
4 on which we've heard comments from the public and
5 Commissioners allays all those concerns.

6 I would just as soon adopt the
7 resolution and allay them completely. But I hear
8 your comments.

9 Do we have any further comment here?

10 COMMISSIONER PERNELL: Mr. Chairman.

11 CHAIRMAN KEESE: Commissioner Pernell.

12 COMMISSIONER PERNELL: Again, and I
13 don't want to be redundant, I'm not convinced that
14 the resolution gets us anywhere, because it adds
15 more, in my opinion, to the confusion.

16 It lays out clearly what we've done in
17 the past and brings to the present, but that's
18 already been reported on, I'm sure, in some print
19 media that this meeting will be reported on.

20 We're not -- and the misconception in
21 terms of whether we're trying to circumvent the
22 CEQA, or whether we're trying to circumvent the
23 Legislature or any -- we're not trying to
24 circumvent anyone with this action in terms of the
25 resolution.

1 And to rescind the resolution with a
2 resolution, or to vote on another resolution only
3 adds to the confusion. I think that Commissioner
4 Laurie is correct that we don't need a resolution
5 to tell us to do our job. It is our obligation to
6 do that. And as long as we're doing that, the
7 public will see that. As long as we're
8 interacting and being inclusive, and I think that
9 we've done that with holding a workshop.

10 I mean this has been a great example of
11 the Commission allowing input into its process.
12 We've always done that, at least since I've been
13 here, and I want to see that continue.

14 But we do not need more bureaucratic
15 confusion with a resolution telling us to do
16 something that we have authority to do already.

17 So, I'm not, with all due respect to my
18 colleagues, I'm not in favor of adopting the
19 resolution.

20 CHAIRMAN KEESE: Thank you. We have a
21 motion and second.

22 All in favor?

23 (Ayes.)

24 CHAIRMAN KEESE: Opposed?

25 (Noes.)

1 CHAIRMAN KEESE: That is defeated, two
2 to three.

3 Thank you. Thank you, everyone, for
4 your participation.

5 Item 19, we have the minutes of
6 September 5, September 19, --

7 COMMISSIONER MOORE: Move the minutes.

8 CHAIRMAN KEESE: -- September 26 --

9 COMMISSIONER LAURIE: Second.

10 CHAIRMAN KEESE: -- et cetera.

11 COMMISSIONER PERNELL: On the question
12 of the minutes, Mr. Chairman, --

13 CHAIRMAN KEESE: Motion by Commissioner
14 Moore; second by Commissioner Laurie.
15 Commissioner Pernell.

16 COMMISSIONER PERNELL: I know you're
17 trying to get out of here by 12:00. But, my
18 question is we got six sets of minutes. And we're
19 to approve those, and it takes some time going
20 through six sets of minutes.

21 And my question is why do we have six
22 sets of minutes --

23 CHAIRMAN KEESE: I heard Rosella was a
24 speed reader.

25 (Laughter.)

1 COMMISSIONER MOORE: I think it's a good
2 point, Mr. Chairman. And the way it's explained
3 to me is that staff workload varies, and that the
4 secretariat gets behind.

5 It seems to me this is -- we can offer a
6 gentle prod to the secretariat and say that it
7 would be nice to not have a lapse of more than two
8 meetings between the --

9 CHAIRMAN KEESE: Okay, and we won't lay
10 this all on the secretariat. There is actually a
11 process of review that takes place with the
12 minutes. The minutes are prepared; the minutes
13 are reviewed by legal counsel; the minutes are --
14 I don't know how many other reviews take place,
15 and then they come to us.

16 So, a gentle suggestion, maybe we --

17 COMMISSIONER MOORE: Throughout the
18 process.

19 CHAIRMAN KEESE: -- don't want to wait
20 till December to do September 5th minutes.

21 COMMISSIONER MOORE: Or June.

22 COMMISSIONER PERNELL: I'm not being
23 critical, I'm --

24 CHAIRMAN KEESE: Okay, --

25 COMMISSIONER PERNELL: -- just asking --

1 CHAIRMAN KEESE: All right.

2 COMMISSIONER MOORE: I think it's a
3 great point.

4 CHAIRMAN KEESE: We've sent a little
5 message here.

6 COMMISSIONER MOORE: Mr. Chairman, I
7 have -- oh, you have a motion, I'm sorry.

8 COMMISSIONER PERNELL: There's a motion
9 on the --

10 CHAIRMAN KEESE: We have a motion and
11 second in front of us. Any further comments?

12 All in favor?

13 (Ayes.)

14 CHAIRMAN KEESE: Opposed?

15 Commission Committee and oversight.

16 COMMISSIONER MOORE: Mr. Chairman, I'd
17 like to report on a CPUC report that is out, a gas
18 report that was provided to the California Power
19 Authority. They have provided -- the CPUC has
20 provided a draft natural gas report to our
21 Commission for review as called for in Senate Bill
22 6X.

23 The staff has reviewed the report; and
24 preliminarily concludes, and I concur from my
25 office and we haven't been able to get a copy over

1 to Commissioner Rosenfeld's Office, but I
2 apologize, Art, but we will get it over to you,
3 that they don't have any problems with the draft
4 report conclusions so far.

5 We have some suggested changes, but
6 they're mostly ministerial. They will be
7 finalizing the written comments in the next few
8 days. We'll make sure they get out to everyone.

9 Basically I just want to report to you
10 that this correlates very well with the natural
11 gas infrastructure report that we published in
12 September, and which there was some criticism of
13 by members of the CPUC, some members. And I'll
14 simply say that that criticism apparently has
15 waned.

16 And that we are in very broad
17 concurrence in our recommendations. And so they
18 will be coming to the Commission as a whole with
19 comments and we'll keep you informed as it goes
20 ahead. But frankly, I'm pretty satisfied that we
21 got the response we did.

22 CHAIRMAN KEESE: Thank you. Any other?

23 COMMISSIONER LAURIE: Yes, Mr. Chairman.

24 CHAIRMAN KEESE: Commissioner Laurie.

25 COMMISSIONER LAURIE: Two items. Number

1 one, I received a letter from an entity called
2 Rumla, R-u-m-l-a, Inc. They're an engineering and
3 consulting firm that has done work with the Energy
4 Commission before.

5 Their letter and their discussion with
6 me dealt with security of transmission lines. And
7 the letter's entitled, Debriefing on an Initiative
8 for HVDC, standing for high voltage direct
9 current, Segmentation of the Western
10 Interconnection Grid.

11 Basically their idea is to develop
12 engineering methodologies for segmenting the grid,
13 thus protecting it on a security basis.

14 Their request is that there be convened
15 a conference of stakeholder agencies. But before
16 that occurs they're interested in making a
17 presentation to the Commission on their security
18 concepts.

19 Would the Commission be interested in
20 hearing a short presentation from this entity?
21 The entity appears to be a competent existing
22 entity. I know Commissioner Moore has been
23 working on security issues. Would the Commission,
24 as a whole, be interested in hearing a 15- or 20-
25 minute presentation on the concepts?

1 COMMISSIONER MOORE: I, for one, would
2 love to hear that. It doesn't require information
3 going from us to them?

4 COMMISSIONER LAURIE: Right.

5 CHAIRMAN KEESE: Can we have a quick --

6 COMMISSIONER MOORE: This is --

7 CHAIRMAN KEESE: Would you mind having a
8 quick review by staff before we -- I mean I have
9 no problem with that in particular, but --

10 COMMISSIONER LAURIE: But you'd like to
11 have them talk to staff first?

12 CHAIRMAN KEESE: Well, I'd like to have
13 staff tell us whether we should have the briefing.

14 COMMISSIONER LAURIE: Okay, who --

15 CHAIRMAN KEESE: I'm certainly willing
16 to have the briefing.

17 COMMISSIONER ROSENFELD: I think -- but
18 I'd be happier with staff.

19 COMMISSIONER LAURIE: Okay, Steve, so I
20 will send them to you.

21 MR. LARSON: Please do.

22 COMMISSIONER LAURIE: Okay.

23 CHAIRMAN KEESE: And we'll see it, but
24 that --

25 COMMISSIONER LAURIE: And, Mr. Chairman,

1 on the issue of distributed generation, my office
2 has been working on the issue for some time. Mr.
3 Tomashefsky has led our activities on
4 interconnection questions.

5 And the question has come up on the
6 issue of overall state policy regarding
7 distributed generation, or even overall Energy
8 Commission policy on distributed generation.

9 The CEC has at least three or four
10 programs that deal with distributed generation.
11 The PUC is dealing with distributed generation;
12 Water Resources is dealing with distributed
13 generation; ISO is dealing with distributed
14 generation. And yet there's no overall goal or
15 policy or even focus on the entirety of the
16 subject.

17 I am interested, Mr. Chairman, in having
18 us take a look at, either through the jurisdiction
19 of the siting committee or otherwise, an activity
20 that would allow for an examination of a
21 distributed generation strategic plan.

22 It would not require any additional
23 resources. Mr. Tomashefsky, I would suggest,
24 would take the lead on it, but it would require
25 the input from the R&D folks, and especially the

1 renewable folks. And I would expect a few months
2 timeframe on this.

3 The question before the Commission is
4 not on the question of allocation of resources,
5 necessarily, but would you share the idea that an
6 effort towards focusing a common though process on
7 distributed generation, at least inhouse, if not a
8 state policy, would be in order.

9 COMMISSIONER MOORE: Mr. Chairman.

10 CHAIRMAN KEESE: Commissioner Moore.

11 COMMISSIONER MOORE: I would comment, as
12 the member who leaves, and so I offer you these
13 comments in anticipation of what you might get,
14 and I would like to strongly suggest that you all
15 support this effort.

16 And that you go a step farther in that
17 you bring back something that I think is very very
18 valuable. I hope you all keep it in mind as you
19 proceed in the year ahead, and that is this is the
20 place where the decisions are made. These five
21 people. Not the rest of the building, not the 500
22 staff people who support your decisions, advise
23 you, but, in fact, this is where the decisions are
24 made.

25 You need to make sure that you keep that

1 forum in mind. And that you don't lose it; that
2 you don't lose sight of the fact that this is
3 where the policy discussions should take place in
4 a consistent and coherent way. Everything else is
5 just advice. Everything else is just support. I
6 don't say that it doesn't matter, but it doesn't
7 matter. This is what matters.

8 This is where it all comes together.
9 And I urge you to take this as something that is a
10 mark of the future. It is where you collectively
11 can make an impact and an imprint on the system as
12 a whole.

13 I don't believe the PUC is going to
14 exert leadership in this field. But I believe it
15 is a field that is critical to understanding how
16 the California system will function in the future.

17 And you have the resources up at this
18 dais to understand that, and to discover and
19 debate it.

20 And so I urge you, when Commissioner
21 Laurie, and I trust he will go forward with this,
22 produces his white paper and his discussion piece
23 on that, that you convene a Committee of the
24 whole, and that you meet in that capacity. And
25 that you engage in a lively and informed and

1 hopefully very confident going-forward debate on
2 it.

3 This is a great tool to manage your own
4 future as you, as Commissioners, go forward. So I
5 commend this, and I hope that under the leadership
6 that Bob's going to show on this, in anticipation,
7 it will be a great forum for you to use.

8 COMMISSIONER PERNELL: Mr. Chairman, a
9 question to Commissioner Laurie. In hearing you
10 describe this, first of all, I think it's a great
11 idea, because we have bits and pieces coming out
12 in terms of what distributed generation is, the
13 air quality of it and all of that. So, I think
14 it's a great idea.

15 But, are you envisioning an agency,
16 different agencies, PUC and ISO and Air Board,
17 coming together under the Energy Commission's kind
18 of guidance to put a comprehensive document
19 together that can be viewed as a state document on
20 distributed generation?

21 COMMISSIONER LAURIE: Their views and
22 input would be, I would anticipate, strongly
23 encouraged. That would be my concept,
24 Commissioner Pernell.

25 We do need inhouse concurrence. But I

1 think even moreso it would be appropriate for this
2 agency to take the lead in helping to develop
3 state agency policy on the issue.

4 COMMISSIONER PERNELL: I think it's a
5 great idea. We just --

6 CHAIRMAN KEESE: I would concur. I
7 think that inadvertently other agencies have been
8 taking actions that impact this, whether they know
9 it or not. The actions under direct access
10 impact. The long-term contracts that are signed
11 that don't include renewable energy contracts have
12 an impact on this.

13 So, I think it would be very important
14 to look at it holistically prior to some of these
15 actions taking place, which were taken for reasons
16 of their own, but not to quash distributed
17 generation. But they certainly could have a
18 negative impact, and will for some time. And
19 we'll have to work our way out of this. So, I --

20 COMMISSIONER MOORE: Right. Don't
21 forget inaction. That thing that follows when
22 you've got a whole raft of dockets --

23 CHAIRMAN KEESE: And inaction, inaction,
24 yeah, the same --

25 COMMISSIONER MOORE: -- that you simply

1 don't open.

2 CHAIRMAN KEESE: I think we have
3 consensus here.

4 COMMISSIONER LAURIE: Got the --

5 CHAIRMAN KEESE: -- vote, I think you
6 got all five.

7 COMMISSIONER LAURIE: Yeah, that's all I
8 need. I have one more point, Mr. Chairman. I
9 would request a special Commission meeting before
10 Christmas, if at all possible, to deal with the
11 issue that we earlier committed to. That is a
12 Commission meeting to discuss roles and
13 responsibilities among the Commissioners, its
14 Committees and it's management staff.

15 We had talked about that some weeks ago
16 and we said we were going to get together,
17 especially with Kent Smith leaving; he does have
18 some historical knowledge on this issue. If at
19 all possible, I'd like to have it done before he
20 leaves.

21 I don't think Commissioner Moore is
22 going to leave. I think the Governor is going to
23 demand that he stay. And we can probably expect
24 that announcement any time --

25 (Laughter.)

1 COMMISSIONER LAURIE: But, I am
2 concerned about Kent Smith leaving and not getting
3 his input. So the question is, if time -- and I
4 think maybe no more than a half a day. I don't
5 think we need to go into a great deal of detail on
6 it.

7 But a lot of work had been done some
8 years ago, and I think it's important that we
9 rethink some of these questions.

10 COMMISSIONER MOORE: Agreed. I'll make
11 the day.

12 CHAIRMAN KEESE: Well, we'll take --

13 COMMISSIONER PERNELL: As long as it's
14 not on the 19th.

15 CHAIRMAN KEESE: We will take that into
16 consideration and see what we can do.

17 COMMISSIONER MOORE: You don't have
18 anything left on the 19th.

19 (Laughter.)

20 CHAIRMAN KEESE: Recognizing the time
21 that it takes to notice, that we will make a
22 decision very promptly on that.

23 All right. Chief Counsel's report.

24 MR. CHAMBERLAIN: I have no further
25 report today, Mr. Chairman.

1 CHAIRMAN KEESE: Wonderful. Executive
2 Director's report.

3 MR. LARSON: Mr. Chairman, Commissioner
4 Laurie sort of stole my thunder, but --

5 COMMISSIONER LAURIE: Oh, I'm sorry.

6 MR. LARSON: -- I just wanted to
7 officially announce that Kent Smith is retiring
8 effective December 21st. And we'll make all due
9 arrangements about that, and let you know as
10 things develop. We're very very sorry to see him
11 leave. He represents more than two decades of
12 service to the Commission in one job, which is as
13 Chief Deputy, which is pretty remarkable. He's
14 actually, he's getting out of here and he's alive
15 still.

16 (Laughter.)

17 MR. LARSON: That's some achievement. I
18 don't know any other examples of that. But it's
19 remarkable, and we'll be talking to you more about
20 it.

21 In the interim I've appointed Bob
22 Therkelsen to be the Acting Chief Deputy. And I
23 wanted to make that announcement.

24 CHAIRMAN KEESE: Thank you.

25 COMMISSIONER PERNELL: Just one

1 question, and I'm sure you will do this, but if
2 there's any, Mr. Larson, activity that is centered
3 around Kent, please let the Offices know. I, for
4 one, would certainly like to participate.

5 CHAIRMAN KEESE: I think that's
6 unanimous, I'm sure.

7 Public Adviser's report.

8 MS. MENDONCA: Good morning, Mr.
9 Chairman. I will make my comments very brief, and
10 perhaps, as the Public Adviser I'm a day late and
11 a dollar short now that the room is empty, but I
12 did want to comment, having heard Mr. Therkelsen
13 gave applause to all the hard work that went on at
14 the Energy Commission this summer.

15 The one missing applause was for my
16 staff in the Public Adviser's Office, who has --

17 CHAIRMAN KEESE: Well, they just haven't
18 been in town here. We don't know what they do.

19 (Laughter.)

20 MS. MENDONCA: -- who has answered
21 literally hundreds of phone calls from the public;
22 who has had to deal with the various and sundry
23 processes that have come our way, ranging from 21
24 days to four months to six months. And, of
25 course, we are much more equipped to handling

1 questions in the 12-month process.

2 But I did want to give them
3 acknowledgement and applause for their very hard
4 work. Thank you.

5 CHAIRMAN KEESE: Thank you.

6 COMMISSIONER PERNELL: I'm sure Mr.
7 Therkelsen included your staff, as well, when he
8 commented on the hard work that all the Commission
9 employees are doing.

10 CHAIRMAN KEESE: Okay. Well, I see it's
11 six minutes to 12, and at this time we'll take
12 public comment, if there is any public comment.

13 Seeing none, we're adjourned.

14 (Whereupon, at 11:55 a.m., the business
15 meeting was concluded.)

16 --o0o--

17

18

19

20

21

22

23

24

25

CERTIFICATE OF REPORTER

I, VALORIE PHILLIPS, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Business Meeting; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said business meeting, nor in any way interested in outcome of said business meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of December, 2001.

VALORIE PHILLIPS

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

□